

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JAMES JACOBS, INDIVIDUALLY, AND
AS HEIR OF DORIS JACOBS,

Plaintiff,

vs.

NEXION HEALTH AT HUMBLE, INC.
D/B/A HUMBLE HEALTHCARE
CENTER,

Defendant.

CIVIL ACTION NO. 4:15-cv-1863

NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT COURT:

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant Nexion Health at Humble, Inc. d/b/a Humble Healthcare Center (“Humble”), by and through the undersigned counsel, provide this Notice of Removal of Cause No. 2015-31001-190; *James Jacobs, Individually, and as Heir of Doris Jacobs v. Nexion Health at Humble, Inc. d/b/a Humble Healthcare Center*, from the 190th Judicial District Court of Harris County, Texas to the United States District Court for the Southern District of Texas, Houston Division. The grounds for removal are as follows:

1. The state court action styled *James Jacobs, Individually, and as Heir of Doris Jacobs v. Nexion Health at Humble, Inc. d/b/a Humble Healthcare Center* (the “State Court Action”) was commenced on May 29, 2015, when Plaintiff James Jacobs, Individually, and as Heir of Doris Jacobs (“Plaintiff”) filed Plaintiff’s Original Petition (the “Petition”) against

Humble in the 190th Judicial District Court of Harris County, Texas. *See* Exhibit 3. Humble was served with the State Court Action on June 3, 2015. *See* Exhibit 2.

Diversity Jurisdiction Exists Between the Parties in Interest

2. Plaintiff James Jacobs, Individually, and as Heir of Doris Jacobs was domiciled in the State of Texas at the time the State Court Action was commenced. Plaintiff was at that time and is now a citizen of the State of Texas. *See* Exhibit 3 at p. 1.

3. Defendant Nexion Health at Humble, Inc. d/b/a Humble Healthcare Center is a corporation incorporated under the laws of the State of Delaware, having its principal place of business now and at the time this action was commenced in the state of Maryland. Therefore, for the purposes of diversity jurisdiction, Humble is a citizen of the state of Delaware and the state of Maryland.

4. Plaintiff's Original Petition in the State Court Action filed on May 29, 2015 represents that the amount in controversy is over \$200,000 but not more than \$1,000,000, which exceeds \$75,000. *See* Exhibit 3 at p. 5.

5. This is a civil action over which this Court has original jurisdiction based on diversity of citizenship in that every defendant is now and was at the time the action was commenced diverse in citizenship from every plaintiff. 28 U.S.C. § 1332(a). This action is one which may be removed by Humble because there is diversity of citizenship between all plaintiffs and defendants. Plaintiff is an individual who is a citizen of the State of Texas, Humble is a citizen of the States of Delaware and Maryland, and the amount in controversy exceeds \$75,000. 28 U.S.C. §§ 1332(a), (c), 1441 (b).

Notice of Removal

6. Humble was served with Petition in the State Court Action on June 3, 2015. This removal is timely, having being effected within thirty (30) days of receipt of Plaintiff's Original Petition pursuant to 28 U.S.C. § 1446(b) and within one year after the commencement of the State Court Action.

7. The State Court Action is removable to federal court under 28 U.S.C. §§ 1332, 1441, and 1446. The State Court Action is currently pending in a court located within the jurisdiction of the United States District Court for the Southern District of Texas, Houston Division. Venue is proper in this federal judicial district because the Houston Division of the United States District Court for the Southern District of Texas embraces the county where the state court action is pending (Harris County, Texas).

8. In accordance with Local Rule 81, attached to this Notice of Removal and incorporated herein are true and correct copies of the below documents:

- Exhibit 1: Index of matters being filed with this Notice of Removal
- Exhibit 2: All executed process from the State Court Action
- Exhibit 3: Plaintiff's Original Petition
- Exhibit 4: Humble's Original Answer and Request for Disclosure
- Exhibit 5: A copy of the docket sheet in the State Court Action
- Exhibit 6: A list of counsel of record, including addresses, telephone numbers and parties represented

9. Humble will promptly file a copy of this Notice of Removal with the clerk of the 190th Judicial District Court in Harris County, Texas where the State Court Action has been pending.

10. In filing this Notice of Removal, Humble does not intend to waive any defenses or rights available to it in this action.

WHEREFORE, in conformance with the procedural requirements of 28 U.S.C. § 1446, Defendant Nexion Health at Humble, Inc. d/b/a Humble Healthcare Center removes Cause No. 2015-31001-190; *James Jacobs, Individually, and as Heir of Doris Jacobs v. Nexion Health at Humble, Inc. d/b/a Humble Healthcare Center*, currently pending in the 190th Judicial District Court of Harris County, Texas, to the United States District Court for the Southern District of Texas, Houston Division.

Date: June 30, 2015.

Respectfully submitted,

MACDONALD DEVIN, P.C.

By: /s/ Gregory N. Ziegler

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**ATTORNEY FOR DEFENDANT NEXION
HEALTH AT HUMBLE, INC. D/B/A HUMBLE
HEALTHCARE CENTER**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been forwarded to the following counsel in accordance with the Federal Rules of Civil Procedure and Local Rules of this Court on this 30th day of June, 2015.

VIA EMAIL: FIRM@MEDMALFIRM.COM

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/s/ Gregory N. Ziegler

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